

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

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WRIT PETITION NO : 5279 of 1997

Between:

M/s. Remu Pipes Limited, 1-10-249/1/c, Ashok Nagar,

Hyderabad-500 020, rep. by its Executive Director

D.Surender Reddy

..... PETITIONER

AND

1)The Andhra Pradesh State Electricity Board,

Vidyut Soudha, Somajiguda, Hyderabad,

Rep. by its Member Secretary.

2)The Superintending Engineer, operation

circle, APSEB, Medak.

3)The Assistant Divisional Engineer, operation

circle, APSEB, Gummadidala, Jinnaram mandal,

Medak district.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order or direction more particularly one in the nature of a writ of

mandamus declaring the condition 22 of the terms and conditions of supply of the A.P. State Electricity Board as illegal, arbitrary and ultra vires the Indian Electricity Act, 1910, and consequently quash the order of the Superintending Engineer passed vide letter No. SE/OP/MDK/SAO/HT/D.No.1149/96, dated 22.01.1997.

Counsel for the Petitioner: Mr. C.KODANDA RAM

Counsel for the Respondents : SMT.M.VINOBHA DEVI, S.C. for A.P.Transco.

The Court made the following :

ORDER :

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Heard both sides.

The petitioner, which is an industry, seeks to assail by way of Writ of Mandamus, the impugned demand notice issued by the second respondent on 22.01.1997 on the ground of back billing.

The case of the petitioner is that having given a complaint earlier, his meter was replaced and still the inspection was done in October, 1993, whereupon the present impugned bill was being given. Challenging the same, the petitioner filed earlier a Writ Petition No. 2261 of 1994, which was disposed of 23.02.1994, with a direction to the petitioner to file explanation treating the bill as a show-cause notice. Accordingly, the petitioner filed his explanation on 05.03.1994. But, the impugned proceedings were passed on 22.01.1997 without considering the facts therein, demanding the same Rs.1,76,226/- towards the consumption.

Having heard the counsel on either side, it is seen that the impugned order is an appellable one. Though the petitioner sought to raise the plea placing reliance on the decision reported in *Klayman Porcelains Limited V. Superintending Engineer (operations), Mahaboobnagar circle, APSEB & another* in regard to the jurisdiction of Assistant Divisional Engineer to conduct any proceedings, however, these are all matters which can as well be appreciated in appeal. Further, the petitioner did not raise any similar such objection either in the earlier

Writ Petition or in the explanation filed on 05.03.1994. In view of the same, it is felt desirable that the petitioner should avail the alternative and efficacious remedy available under law. It is also pointed out during the course of proceedings that the petitioner has already deposited half of the demand made.

The Writ Petition is, accordingly, dismissed with a liberty to the petitioner to avail alternative remedy of appeal. The petitioner shall file the appeal within a period of six weeks from today and on receipt thereof, the same shall be disposed of on merits and in accordance with law after giving notice and opportunity to both sides. It shall be open for the petitioner to move any interlocutory application before the appellate authority in regard to stay.

16.12.2004

16.12.2004

DRK

Copy to:

1)The Member Secretary, Andhra Pradesh State Electricity Board,
Vidyut Soudha, Somajiguda, Hyderabad,

2)The Superintending Engineer, operation
circle, APSEB, Medak.

3)The Assistant Divisional Engineer, operation

circle, APSEB, Gummadidala, Jinnaram mandal,
Medak district.

4)Two CD copies.